

Minneapolis Planning Department
350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: May 8, 2003

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and
Members of the Committee

FROM: Hilary Watson, City Planner

SUBJECT: Appeal of the decision of the Zoning Board of Adjustment by Bruce
Erickson

Bruce Erickson has filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to deny the requested variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground swimming pool and to 5 feet to allow for the construction of a deck and to deny the requested variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet. The actions from the April 9, 2003 Zoning Board of Adjustment meeting are attached.

The appellant is appealing the decision of the Zoning Board of Adjustment to deny the requested variances. The appellant has indicated that this action is being appealed because the property is considered a "reverse corner lot", and therefore does not have a backyard, or any yard, that is not subject to a 25' setback requirement. If the setback requirement were adhered to, the use and enjoyment of the property would be very limited. In this particular situation because of the required setbacks a pool only 2' wide could be built (41' wide lot, less 25' setback, less 6' interior lot setback, less a minimum of a 4' wide deck on each side of the pool = 2').

At the April 9, 2003 Zoning Board of Adjustment meeting, six Board members were present. Four of the Board members voted to deny the variance applications and two of the Board members voted to approve the variance applications.

HEARING AGENDA

Minutes

April 9, 2003

Minneapolis Board of Adjustment:

Ms. Debra Bloom - Absent
Mr. David Fields
Mr. John Finlayson
Mr. Paul Gates - Absent
Ms. Marissa Lasky
Mr. Barry Morgan
Mr. Peter Rand
Ms. Gail Von Bargaen
Mr. Richard White - Absent

The meeting was called to order at 2:05 p.m.

The Minutes of March 26, 2003 were approved.

The Consent Agenda was approved for the following items: 6, 7 and 8

No Items were withdrawn.

HEARING

1. 2101 Drew Ave. S. (BZZ – 1095, 7th Ward)

Bruce Erickson has applied for a variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground pool and to 5 feet to allow for the construction of a deck and a variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet at 2101 Drew Avenue South.

TESTIMONY:

Bruce Erickson, 2101 Drew Ave, Applicant. Would like the Board to take in to consideration the work that has previously been done to the property and enhancements that were made, not only for our good but also for the neighborhood. This pool project we are proposing is a continuation of a 3-year project that has been done since property was purchased. We have worked with 2 architects and feel that we have carefully considered not only the site of our property but also the scale of the house. We will work with landscape gardening architects and we will also be very sensitive how this will play out. As it has always been an extension of our house the pool site is off our living room which is all glass. The inside of our home is all open. It is in our best interest to be sensitive as to how this is constructed. That it not just a pool off the back of our walkout basement. We will always be able to see it.

Peter Kiriara. 2101 Drew Ave. Co-Applicant. More than ½ of the decking around the pool is wood. Our intention is not to make it a concrete jungle. The majority of the fence is also constructed of wood. The Drew Avenue side is an open style 4-foot fence and is elevated off the

street. To not box in or box out the neighbors across the street and to be open to the frontage of Drew Ave.

Board of Adjustment Member, Ms. Lasky. There is a pool on Xerxes Ave similar to this.

OPPOSITION:

Frank Rivas, 2111 Drew Ave. S. Adjacent lot. Confirm that Bruce and Peter have built a beautiful house they have improved the neighborhood already. They have been excellent neighbors. This is in no way a reflection on them as neighbors. Our neighborhood is at risk with this new construction in order to maintain the zoning. We have tried to resolve all this by talking; it has been hard to resolve. The six-foot fence would be my view from my dining room window. The fence that is there right now is transparent. What is in mind now is a solid fence. When you buy a house in a neighborhood you have a right to expect the zoning codes will be enforced. And that there will not be a six foot high fence next to your front yard. A variance would alter the essential character of the locality and be injurious to the use or enjoyment of other property in the vicinity.

Greg Froehle, 3525 W. 21st St. Adjacent house. Concerned about a native oak tree that has been there before the neighborhood was established. One of the biggest trees in the neighborhood and on the highest point of land on that block. The code seems to be saying that given reasonable use or reasonable utilization natural features such as this should be preserved. Position is that a pool is not a reasonable utilization.

Board of Adjustment Member Mr. Rand stated that trees do die.

Dave Holets, 2116 Cedar Lake Parkway. Opposes the tree being cut down. The property seen as a front yard for the residents certainly is seen by the person at 2111 Drew and by others as the front of the dwelling facing the street. Perspective of view would take away a lot of the landscaping. Those of us who live in the area love the landscaping. The land is built up from the alley from Drew Avenue approximately 7 to 8 feet above the cut of the alley. To pile a six-foot fence on top of that is hitting an opposing wall at that point. Variance is not appropriate for the neighborhood.

John Soderlund, 3521 W. 21st Street. Proposal is a deterioration of the neighborhood not an improvement. It has an impact on the neighborhood in terms of property values and the quality of life. In the totality that it has to include the removal of a tree. If it were a building it would qualify for historical preservation. The zoning codes include protection of property of natural resources on private property. This may not be a reasonable improvement to justify the removal of a tree that was there long before.

Michelle Conner, 3525 W. 21st Street. Lives in the neighborhood because of the trees. Proposal will affect the quality of life.

The public hearing was closed.

Board of Adjustment Member Mr. Morgan questioned the fence and landscaping plan. And stated that 60 percent of the year neighbors cannot see into the yard.

Board of Adjustment Member Ms. Lasky sees no reason for a six-foot fence. Pools and pool areas in neighborhoods are noise creators and create an adverse affect to neighbors.

Board of Adjustment Member Mr. Rand questioned if the applicant has asked insurance companies the requirement for the height of a fence around a pool.

Bruce Erickson replied no.

Board of Adjustment Member Ms. Von Bargaen. Neighbors have articulated their arguments very well.

BOARD OF ADJUSTMENT ACTION:

Notwithstanding the staff recommendations Mr. Fields motioned to **deny** the variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground pool and to 5 feet to allow for the construction of a deck and to **deny** the variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet due to the fact that the applicant's front yard is also the front yard of the adjacent neighbors. Ms. Lasky seconded the motion.

ROLL CALL VOTE:

Yeas: Fields, Lasky, Morgan, Von Bargaen

Nays: Finlayson, Rand

Absent: Bloom, Gates, White

The Board of Adjustment **DENIED** the variance applications.